

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 07-60147

JOSEPH E. GRUCKUNAS,

Chapter 13

Debtor.

Judge Thomas J. Tucker

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**ORDER DENYING DEBTOR'S MOTION TO SET ASIDE ORDER
DISMISSING CHAPTER 13 CASE**

This case is before the Court on Debtor's motion entitled "Motion to Set Aside Order Dismissing Chapter 13 Case"(Docket # 58, the "Motion"), which this Court construes as a motion for reconsideration of the Court's September 29, 2009 Order dismissing this case ("September 29 Order")(Docket # 57), or alternatively, as a motion for relief from the Court's September 29 Order.

The Court has reviewed and considered the Motion, and finds the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

In addition, the Court notes the following. This case was dismissed because the Debtor did not file a notice of conversion to convert this case to Chapter 7 on or before September 28, 2009, as required by the stipulation and order at Docket ## 52 and 53. Debtor agreed in the stipulation (Docket # 53) that if he did not meet this requirement, "the case shall be dismissed . . . without further notice or hearing." The Motion does not allege that Debtor or Debtor's counsel made any sort of "mistake" in failing to timely meet this requirement. Nor does the Motion allege or demonstrate any excusable neglect in Debtor's failure to meet this requirement. The

allegations in the Motion do not establish any valid ground for relief from the order dismissing this case under Fed.R.Civ.P. 60(b).

Accordingly,

IT IS ORDERED that the Motion is DENIED.

Signed on October 22, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge